

**From:** [Elizabeth Goldmann](#)  
**To:** [Goldmann, Elizabeth](#)  
**Subject:** Fw: DCW - traditional navigable water determinations under CWA 24Sep08.pdf  
**Date:** Tuesday, October 25, 2016 4:41:40 PM  
**Attachments:** [DCW - traditional navigable water determinations under CWA 24Sep08.pdf](#)

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----- Forwarded by Elizabeth Goldmann/R9/USEPA/US on 10/25/2016 04:41 PM -----

Document Log Item			
Addressing			
From		To	
Jessica Kao/R9/USEPA/US		David Evans/DC/USEPA/US@EPA David Evans/DC/USEPA/US,	
CC		BCC	
Description			Form Used:
Subject		Date/Time	
Re: Fw: DCW - traditional navigable water determinations under CWA 24Sep08.pdf		10/03/2008 12:05 PM	
# of Attachments	Total Bytes	NPM	Contributor
1	54,104		Jessica Kao
Processing			
Comments			

▼ Body

### [Document Body](#)

May not be too late b/c the district was reworking the original memo to conform to new directive. So the

TNW package is now probably with the division, which, one would assume, will coordinate more with the ASA's office.

▼ David Evans/DC/USEPA/US

David Evans/DC/USEPA/US


10/03/2008 05:19 AM

To

Jessica Kao/R9/USEPA/US@EPA

cc

Subject

Re: Fw: DCW - traditional navigable water determinations under CWA 24Sep08.pdf 

Jessica,

We've heard that this policy was intended to head off the decision on Gila River, but it was issued too late. Nonetheless, it is their new approach to TNW designations so will affect all future decisions....I will be discussing it with Chip Smith later today, and if any light to shed following that, I'll let you know.

Dave

David Evans, Director  
Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
(202) 566-0535

▼ Jessica Kao/R9/USEPA/US

Jessica Kao/R9/USEPA/US

10/02/2008 07:16 PM

To

David Evans/DC/USEPA/US@EPA, Brian  
Frazer/DC/USEPA/US@EPA, Donna  
Downing/DC/USEPA/US@EPA, Kevin  
Minoli/DC/USEPA/US@EPA, Karyn  
Wendelowski/DC/USEPA/US@EPA

cc

Alexis Strauss/R9/USEPA/US@EPA, DavidW  
Smith/R9/USEPA/US@EPA, Amy Miller/R9/USEPA/US@EPA

Subject

Fw: DCW - traditional navigable water determinations under CWA 24Sep08.pdf

Not sure you had a heads-up on this new COE procedure .... Interestingly, it's addressed to directors of civil works, not regulatory.

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**From:** Gualtieri, David S (ENRD)

**Sent:** Thursday, October 02, 2008 9:49 AM

**To:** Schachter, Scott (ENRD)

**Cc:** Samuels, Stephen (ENRD); 'adams.margery@epamail.epa.gov'

**Subject:** DCW - traditional navigable water determinations under CWA 24Sep08.pdf

This 9/24 Corps directive on TNW determinations was just forwarded to me by opposing counsel in a case. I haven't reviewed it in detail or sussed out its implications, but wanted to give you a heads up in case you were not aware of it. DG <<DCW - traditional navigable water determinations under CWA 24Sep08.pdf>> (See attached file: DCW - traditional navigable water determinations under

*CWA 24Sep08.pdf)*



DEPARTMENT OF THE ARMY  
OFFICE OF THE ASSISTANT SECRETARY  
CIVIL WORKS  
108 ARMY PENTAGON  
WASHINGTON DC 20310-0108

SEP 24 2008

MEMORANDUM FOR DIRECTOR OF CIVIL WORKS

SUBJECT: Traditional Navigable Water Determinations Under the Clean Water Act

Effective immediately, the determination that a specific water body is a "traditional navigable water" (TNW) will be made by the Division Commander. Such TNW determinations will be based on a formal report of findings prepared by the District Engineer, accompanied by a legal opinion of the District counsel, and forwarded to the Division Commander for final decision. Every formal report of findings will be based substantially on applicable portions of the format described in paragraph (c) of 33 C.F.R. §329.14.

This directive applies to stand-alone TNW determinations for watercourses where the District Engineer proposes an upstream and downstream limit of navigability. This directive does not apply to TNW determinations associated with approved jurisdictional determination(s) or authorizations for the discharge of dredged or fill material into all waters of the United States, including wetlands. The purpose of this directive is to require additional technical review and oversight of TNW determinations affecting watercourses and/or significant aquatic resources. This review will establish whether or not the TNW determination is supported by the Clean Water Act, the agency's implementing regulations, relevant case law, and existing guidance.

This directive shall remain in effect until rescinded in writing.

John Paul Woodley, Jr.  
Assistant Secretary of the Army  
(Civil Works)